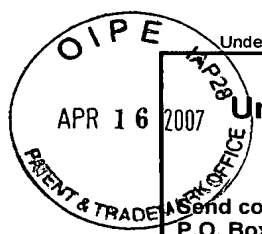


04-17-07

DAE JFW



PTO/SB/17p (09-06)  
Approved for use through 03/31/2007. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FEE</b> <b>Under 37 CFR 1.17(f), (g) &amp; (h)</b> <b>TRANSMITTAL</b> (Fees are subject to annual revision) Send completed form to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	<b>Application Number</b>	09/889,085-Conf. #6842
	<b>Filing Date</b>	January 9, 2002
	<b>First Named Inventor</b>	Patricia L. Conway
	<b>Art Unit</b>	1651
	<b>Examiner Name</b>	V. Afremova
	<b>Attorney Docket Number</b>	27295/38258

Enclosed is a petition filed under 37 CFR 1.182 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 400.00 is enclosed.  
 This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees).

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 13-2855 :  
☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments  
 Enclose a duplicative copy of this form for fee processing.

☒ Check in the amount of \$ 400.00 is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

<b>Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462</b> For petitions filed under: § 1.36(a) – for revocation of a power of attorney by fewer than all applicants. § 1.53(e) – to accord a filing date. § 1.57(a) – to accord a filing date. § 1.182 – for decision on a question not specifically provided for. § 1.183 – to suspend the rules. § 1.378(e) – for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent. § 1.741(b) – to accord a filing date to an application under § 1.740 for extension of a patent term.
<b>Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463</b> For petitions filed under: § 1.12 – for access to an assignment record. § 1.14 – for access to an application. § 1.47 – for filing by other than all the inventors or a person not the inventor. § 1.59 – for expungement of information. § 1.103(a) – to suspend action in an application. § 1.136(b) – for review of a request for extension of time when the provisions of section 1.136(a) are not available. § 1.295 – for review of refusal to publish a statutory invention registration. § 1.296 – to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued. § 1.377 – for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent. § 1.550(c) – for patent owner requests for extension of time in <i>ex parte</i> reexamination proceedings. § 1.956 – for patent owner requests for extension of time in <i>inter partes</i> reexamination proceedings. § 5.12 – for expedited handling of a foreign filing license. § 5.15 – for changing the scope of a license. § 5.25 – for retroactive license.
<b>Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464</b> For petitions filed under: § 1.19(g) – to request documents in a form other than that provided in this part. § 1.84 – for accepting color drawings or photographs. § 1.91 – for entry of a model or exhibit. § 1.102(d) – to make an application special. § 1.138(c) – to expressly abandon an application to avoid publication. § 1.313 – to withdraw an application from issue. § 1.314 – to defer issuance of a patent.

 _____ Signature	April 16, 2007 _____ Date
Jeffrey S. Sharp _____ Typed or printed name	31,879 _____ Registration No., if applicable

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EL995014551US, on the date shown below in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: April 16, 2007      Signature: (Juan Quintero))

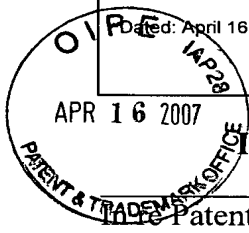
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EL995019551US, on the date shown below in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: April 16, 2007

Signature: \_\_\_\_\_

(Juan Guinero)

Docket No.: 27295/38258  
(PATENT)



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

MS Patent Application of:  
Patricia L. Conway et al.

Application No.: 09/889,085

Confirmation No.: 6842

Filed: January 9, 2002

Art Unit: 1651

For: IMPROVED MICROBIAL PREPARATIONS

Examiner: V. Afremova

**PETITION UNDER 37 CFR 1.182 AND**  
**REQUEST FOR ENTRY OF PREVIOUSLY FILED AMENDMENT AND REQUEST**  
**TO RE-OPEN PROSECUTION**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This petition is filed in response to the Communication Re: Appeal mailed March 14, 2007 in which the Examiner states no reply to the decision by the Board of Patent Appeals and Interferences dated December 29, 2006 was filed within two months and that the appeal is abandoned because there are no allowed claims.

In fact, on February 28, 2007, Appellants timely filed a response to the Decision on Appeal rendered December 29, 2006. As proof of timely filing, attached is a copy of the date-stamped return receipt postcard. Also attached is a copy of the response in the form of an Amendment and Request to Reopen Prosecution Under 37 CFR §41.50 timely filed on February 28, 2007. Under the provisions of 37 §CFR 41.50, a request that complies with the provisions will be entered, the application will be reconsidered by the examiner, and the request to re-open prosecution will be treated as a request to withdraw the appeal.

Therefore, Appellants respectfully request entry of the enclosed response and enclose herewith the petition processing fee under 37 CFR 1.17(f) in the amount of \$400.00.

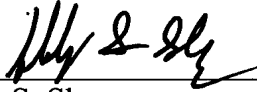
Application No.: 09/889,085

Docket No.: 27295/38258

Notice of the withdrawal of the holding of abandonment is respectfully solicited and given the enclosed evidence that the reply was timely filed, Appellants respectfully request a refund of the petition processing fee.

Dated: April 16, 2007

Respectfully submitted,

By   
Jeffrey S. Sharp

Registration No.: 31,879  
MARSHALL, GERSTEIN & BORUN LLP  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300  
Attorney for Applicant

EXHIBIT A: USSN 09/889,058

28053/38258

02/28/07

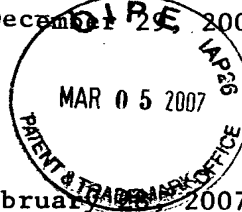
28053

The Patent Office is hereby requested to acknowledge receipt  
of the following papers by stamping and returning this card.

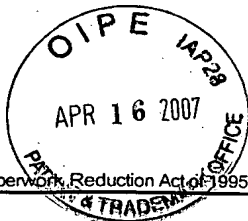
Conway et al.

09/889085

Amendment and Request to Reopen Prosecution in response  
to the Decision on Appeal dated December 29, 2006 w/:  
Appendix A



w/Certificate of Mailing dated February 2007



# COPY

PTO/SB/21 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/889,085-Conf. #6842
	Filing Date	January 9, 2002
	First Named Inventor	Patricia L. Conway
	Art Unit	1651
	Examiner Name	V. Afremova
Total Number of Pages in This Submission	Attorney Docket Number	28053/38258

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	MARSHALL, GERSTEIN & BORUN LLP		
Signature			
Printed name	Jeffrey S. Sharp		
Date	February 28, 2007	Reg. No.	31,879

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Dated: February 28, 2007	Signature:  (Jeffrey S. Sharp)